



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (BA) NO. 701 OF 2025

(Kuldeep S/o Bhadu Kharwade

Vs.

State of Maharashtra, Thr. PSO Gondia, Dist. Gondia.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.G. Hunge, Adv. h/f Mr. O.K. Masurke, Advocate for the Applicant.
Mr. Aditya Gohokar, APP for the Non-applicant No.1/State.
Mr. N.R. Tekade, Advocate for the Injured to assist the prosecution.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 4th AUGUST, 2025

1. The Applicant came to be arrested on 07.03.2025, in connection with Crime No.11/2024 registered with Police Station Gondia City, District Gondia for the offence punishable under Sections 307 read with Section 34 of the Indian Penal Code and Section 3/25 of the Arms Act.

2. The crime is registered on the basis of the report lodged by one Lucky Chaganlal Yadav wherein he has alleged that on 11.01.2024 at about 11.00 O Clock, when he was sitting in the car which was parked in front of his house, he was intending to go to Chirwal Dham for business purpose and he started car and was heading towards Yadav Chowk, at the relevant time he look ahead his uncle Lokesh Yadav on the road in front of Savalani Kirana Shop in Hemu Colony Chowk. At that time, he fell down from his motorcycle on the

Bank of High Road, at that time two unknown persons were seen riding a black Hero Splendor motorcycle and they were coming towards the house of the Complainant at high speed and one of them has fired a bullet towards his uncle, which hit his uncle and his uncle sustained the injuries. On the basis of the said report Police have registered the crime against the present Applicant and other co-accused.

3. Heard learned Counsel for the Applicant who submitted that initially the present Applicant was not named in the FIR, during investigation he was arrested on the basis of the statement of the co-accused and as per the allegation it was present Applicant who has provided the pistols to the co-accused who have used in the commission of crime. Thus, he submitted that, as far as the involvement of the present Applicant is concerned, which is only on the basis of confessional statement. The confessional statement before the Police is not admissible.

4. Learned APP and learned Counsel for the Complainant, strongly opposed the said application and submitted that the statement of the co-accused and statement of the present Applicant shows his involvement, which are recorded by the Police during the investigation. Being it is the discovery of the fact it is admissible and considering the role attributed to the present Applicant, the Application deserves to be rejected.

5. On hearing both the sides and on perusal of the investigation papers it reveals that, the arrest of the present

Applicant is merely on the basis of the confessional statement. There is no other material available on record. The confessional statement of the co-accused is not admissible against the present Applicant. In view of that, the Application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- i. The Application is **allowed**.
- ii. The Applicant – Kuldeep S/o Bhadu Kharwade in connection with Crime No.11/2024 registered with Police Station Gondia City, District Gondia for the offences punishable under Sections 307 read with Section 34 of the Indian Penal Code and Section 3/25 of the Arms Act, be released on bail, on executing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand) with one solvent surety in the like amount.
- iii. The Applicant shall not enter into the vicinity of Gondia City except attending the proceeding before the Trial Court.
- iv. The Applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

- v. The Applicant shall not indulge himself in similar type of activities and single registration of the crime would lead to the cancellation of bail.
 - vi. The Applicant shall attend the proceedings before the Trial Court without seeking any exemption unless there are exceptional circumstances.
 - vii. The Applicant shall attend the Police Station Balaghat twice in a month i.e. on 1st and 15th of every month and the Senior Police Officer of the Balaghat Police Station shall record his presence.
6. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)